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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,152	07/14/2003	Scott Duncan	9370a	6782

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EXAMINER

BRINSON, PATRICK F

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 05/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/619,152

Applicant(s)

DUNCAN, SCOTT

Examiner

Patrick F. Brinson

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-10, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,082,183 to **Huber**.

The patent to **Huber** discloses, fig. 7, a barrier used during testing of a water line including an upstream pipe and a down stream pipe. The barrier comprising a cylindrical wall and a planar disk (162) disposed within the wall member substantially at a right angle to the cylindrical wall. The disk formed within the wall member. Figs. 10 and 11 illustrate what appears to be on the one side of the planar disk is a first region (106) and a second region (105) sized to receive upstream (101) and downstream (103) pipe sections and provide a watertight fit therewith. Though the upstream and downstream pipe sections are not illustrated in this embodiment, this sleeve feature is similarly shown in fig. 7. The upstream and downstream sections each have the same diameter. The disk is removable and acts as a barrier that prevents water from flowing from the upstream pipe into the downstream pipe until

removed, as recited in claims 1, 7 and 13. Col. 12, lines 41-52, discloses that the barrier provides a flexible or puncturable membrane that may be easily removed, as by hand or with the aid of a screwdriver, awl or other instrument, as recited in claims 2 and 9. Col. 13, lines 2-6 discloses that the test baffles and sleeves are constructed of suitably strong, but flexible materials such as natural or synthetic rubber or other suitable polymer, as recited in claims 4 and 10. The patent to **Huber** discloses all the recited structure with the exception of the cylindrical wall and the planar disk being a molded unitary, single piece body. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the cylindrical wall and planar disk as a single, unitary body, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art.

2. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,602,504 to **Barber**.

The patent to **Barber** discloses, figs. 4-10, a barrier used during testing of a water line including an upstream pipe (71) and a down stream pipe (70). The barrier comprising a cylindrical wall (72) and a planar disk (60) disposed within the wall member substantially at a right angle to the cylindrical wall. The disk formed within the wall member. Figs. 5 and 9 disclose a first region on one side of the planar disk sized to receive the upstream pipe (71) and providing a water tight fit therewith and a

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second region on the other side of the planar disk receiving the downstream pipe (70) and providing a water tight fit therewith, each region having the same diameter, with the disk being removable and acting as a barrier that prevents water from flowing from the upstream pipe into the downstream pipe until removed, as recited in claims 1, 6, 7, 12 and 13. The seal contains pull ring (67) that allows for the rupture of the disk upon completion of testing, as recited in claims 2 and 9. Fig. 9 discloses the upstream and down stream pipes abutting against the support flange (62) of planar disk (60), as recited in claims 5 and 11. Col. 6, lines 6 and 7, discloses that the seals may be made from preferred materials including plastics and rubber, as recited in claims 4 and 10. The patent to **Barber** discloses all the recited structure with the exception of the cylindrical wall and the planar disk being a molded unitary, single piece body. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the cylindrical wall and planar disk as a single, unitary body, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art.

Conclusion


3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Britton et al., Barber '482, Huber '350, '510, '515, '363, '584, Sullivan and Palmer are all pertinent to Applicant's invention in

disclosing tear out barrier utilized in water lines for temporarily blocking the passage of water there through.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Patrick F. Brinson** whose telephone number is (703) 308-0111. The examiner can normally be reached on M-F 7:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Michael Y. Mar** can be reached on (703) 308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Patrick F. Brinson
Primary Examiner
Art Unit 3752

P. F. Brinson

11 May 04